

**GOVERNMENT OF ANDHRA PRADESH**

**A B S T R A C T**

Public Servants – Panchayat Raj & Rural Development Department - Allegations of corruption against Sri D. Nagaraju, former Mandal Parishad Development Officer, MP., Ravikamatam, Visakapatnam District - Trapped by the Anti-Corruption Bureau - Charge Sheet filed in the Court – Acquitted by the Spl., Court of ACB Cases – Criminal Appeal filed – Regularisation of suspension period as NOT DUTY and release of full pension and retirement benefits @ 8% per annum from the date of retirement till the date of payment – Orders – Issued.

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**PANCHAYAT RAJ & RURAL DEVELOPMENT (Vig.IV) DEPARTMENT**

G.O.Rt.No. 641

**Dated:- 26-04-2011.**

**Read the following:-**

1. Proceedings of the Chief Executive Officer, Zilla Parishad, Visakhapatnam, Rc.No.7075/98/ A1, Dt:- 13-11-1998.
2. G.O.Ms.No.112, PR&RD(Vig.IV) Dept., Dt:- 20-03-1999.
3. Judgment of the Spl. Judge for ACB Cases-cum-Addl., Dist., and Sessions Judge, Visakhapatnam, in CC No.9/1999, Dt:- 14-03-2006.
4. Govt.Memo.No: 3440/Vig.IV.A1/2006-1, Dt:- 21-09-2006
5. From the Hon'ble APAT., orders, dt:- 23-06-2010 in OA No: 6190/2007
6. Orders of the Hon'ble High Court of A.P., dt:- 28-01-2011 in WP No: 1025/2011.

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**ORDER:-**

In the proceedings., 1<sup>st</sup> read above, the Chief Executive Officer, Zilla Parishad, Visakapatnam issued orders placing Sri D.Nagaraju, Mandal Parishad Development Officer, under suspension as he was trapped by the Anti-Corruption Bureau when he demand and accepted a bribe amount of Rs. 700/- from the complainant.

2. In the G.O., 2<sup>nd</sup> read above, the Government, accorded sanction for prosecution of the Accused Officer, in a Court of Law and accordingly, the Anti-Corruption Bureau., has filed charge sheet against the Accused Officer, vide CC No.9/1999 in the Court of Spl. Judge for ACB Cases, Visakapatnam. Subsequently the Accused .Officer.,was reinstated into service pending finalization of criminal proceedings and retired from service on 31-03-2005.

3. In the judgment 3<sup>rd</sup> read above, the Spl.Judge for SPE&ACB Cases, Visakhapatnam held that the AO is found not guilty of the charges under Sec.7 & 13 (2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and acquitted.

4. In the ref., 4<sup>th</sup> read above, the Govt., accorded permission to the Director-General, Anti-Corruption Bureau, to file an appeal in the High Court against the judgment of the Spl.Jude for SPE&ACB Cases, Visakhapatnam in CC No.9/1999, dt:- 14-03-2006 and accordingly the ACB has filed appeal in the High Court and it was admitted by the High Court on 18-09-2007 vide CrI.Appeal No. 1184/2007 and the same is pending in the Hon'ble High Court of A.P.

**P.T.O.**

5. In the ref., 5<sup>th</sup> read above, the Hon'ble Andhra Pradesh Administrative Tribunal, while disposing the OA filed by Sri D.Nagaraju, MPDO (Rtd.), has directed the respondents to pass orders regarding treatment of period of suspension of the applicant in accordance with FR-54(B) in view of acquittal of the applicant in the criminal case irrespective of the factum of pendency of the crl., appeal. The Tribunal also directed that the respondents shall fix the pay of the applicant in the RPS., 1999 & 2005. In accordance with the orders of the regularization of period of suspension, the respondents shall fix the pension of the applicant, pay full pension and reiremental benefits which are not paid to the applicant with interest at 8% per annum from the date of retirement till the date of payment.

6. The Government have filed WP No: 1025/2011 against the above orders of APAT., and the Hon'ble High Court of A.P., in its orders 6<sup>th</sup> read above, dismissed the WP., filed by the Govt.

7. The Govt., have examined the matter and observed that the Spl.Judge for SPE&ACB Cases, Visakhapatnam in the judgment, while acquitting the A.O., held as follows:-

*It may also be noticed here that P.W.1 admitted that P.W.10 examined him and recorded his statement. But he deviated from Exs.P8 and P10 portions in his 161 Cr.P.C. statement during the course of his examination before the Court. In the above decision, it was also held that either the evidence of complainant or the statement under section 161 of Cr.P.C. must be wrong and in either way, he is responsible for giving false statement or false evidence on oath and the complainant is liable for perjury. Adverting to the facts on hand either Exs.P8 and P10 must be wrong or the above evidence of P.W.1 given before the Court on oath must be wrong. Therefore, in either way P.W.1 is responsible for giving false statement or false evidence on oath.*

*In the light of the above decision and the above evidence, I am of the considered opinion that it is a fit case where prosecution for perjury is to be initiated. Sec.195 of Cr.P.C., deals with conditions requisite for initiation of prosecution for contempt. Sec.340 of Cr.P.C. deals with the procedure in cases mentioned in Sec. 195(1). As per the provisions, a written complaint is to be filed for prosecution of P.W.1 for the offence of perjury. The office is directed to prepare a complaint and present the same before the concerned Magistrate.*

8. In view of the above and judgment of the Supreme Court of India in Krishna Kanth Raghunath Vs. State of Maharashtra (1997(3) SCALE 180), that acquittal in a criminal case followed by reinstatement will not entitle for grant of consequential benefits to a suspended employee as a matter of course, the Govt., have decided to regularize the suspension period of the A.O., as spent on not duty in terms of FR-54(B). Accordingly, Government, hereby, direct that the period of suspension of Sri D. Nagaraju, MPDO (Retd.,) from 6-3-1998 to 26-12-2000 shall be treated as Not Duty.

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9. The Govt., also hereby accord sanction for fixation of pay of the individual in the RPS 1995 & 2005, and for fixation of the pension; for payment of full pension and retirement benefits, which are not paid, with interest at 8% per annum from the date of retirement till the date of payment, by adjusting provisional pension already paid, to Sri D. Nagaraju, MPDO (Retd.) subject to outcome of the criminal appeal case pending in the High Court of A.P., or any other appeal or review that the Govt., may file in the case.

10. The Commissioner of Panchayat Raj & Rural Employment, Hyderabad shall take necessary action immediately. She is also requested to send a compliance report on or before 28-04-2011 to the Govt., and the Govt., Pleader for PR., APAT., Hyd.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**Dr. RAJIV SHARMA  
PRINCIPAL SECRETARY TO GOVERNMENT**

**To**

Sri D.Nagaraju MPDO (Retd.), Ravikamatham, Visakapatnam dist., through the CPR&RE, Hyd.

The CPR&RE., Hyd.,

Copy to:- The Govt., Pleader for PR., APAT., Hyd,

The Director-General, Anti-Corruption Bureau, Hyderabad.

File C.No.3440/Vig.IV.A1/2004

Sf/Sc.

**//Forwarded : By Order//**

**SECTION OFFICER**